



COUNTY OF SAN BERNARDINO
STANDARD PRACTICE

NO 03-2.35

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BY Chris Ebbe, Ph.D

EFFECTIVE 01/99

DEPARTMENT

BEHAVIORAL HEALTH

SUBJECT

ACKNOWLEDGEMENT OF
ABUSE REPORTING DUTIES

APPROVED

Rudy Lopez
Rudy Lopez, Director

I. POLICY

In accord with Penal Code 11166.5 and Welfare & Institutions Code 15659, all new employees will be notified of their child abuse reporting duties and their elder and dependent adult abuse reporting duties. Employees will be required to acknowledge by signature prior to and as a prerequisite to employment that they have been so informed and that they intend to comply.

II. PROCEDURE

As a part of payroll procedures, new clinical employees will receive relevant sections of the laws relating to child abuse reporting and elder and dependent adult abuse reporting, as part of a form acknowledging awareness and intent to comply with these legal requirements. (See Attachment 1, Compliance with W&I Code 15659 and Penal Code 11166.5.) New employees will sign and give the form to the Clinic Supervisor, who will turn it in to payroll, where it will be entered in the employee's personnel file.

SAN BERNARDINO COUNTY DEPARTMENT OF BEHAVIORAL HEALTH

**COMPLIANCE WITH
W&I CODE 15659 AND PENAL CODE 11166.5**

Persons entering employment as health care practitioners, prior to employment and as a prerequisite to that employment, must acknowledge by signature at the end of this document that they are aware of and will comply with the child abuse reporting requirements in Penal Code Section 11166 and the elder and dependent adult abuse reporting requirements of Welfare & Institutions Code Section 15659.

Read the following pages, sign the document, and turn in the last page to your Clinic Supervisor. It will be filed in your personnel record. (Keep pages 1 through 11 for legal reference.)

CHILD ABUSE REPORTING

Section 11166.5. Mandatory child abuse reports; statement of knowledge of duty to report.

- (a). On and after January 1, 1985, any person who enters into employment as a child care custodian, health practitioner, firefighter, animal control officer or humane society officer, or with a child protection agency; prior to commencing his or her employment, and as a prerequisite to that employment, shall sign a statement on a form provided to him or her by his or her employer to the effect that he or she has knowledge of the provisions of Section 11166 and will comply with those provisions.

On and after January 1, 1993, any person who acts as a child visitation monitor, as defined in Section 11165.15, prior to engaging in monitoring the first visit in a case, shall sign a statement on a form provided to him or her by the court which ordered the presence of that third person during the visit, the effect that he or she has knowledge of the provisions of Section 11166 and will comply with those provisions.

The statement shall include all of the following provisions:

Section 11166 of the Penal Code requires any child care custodian, health practitioner, firefighter, animal control officer, or humane society officer, employee of a child protective agency, or child visitation monitor who has knowledge of, or observes, a child in his or her professional capacity or within the scope of his or her employment whom he or she knows or reasonably suspects has been the victim of child abuse to report the known or suspected instance of child abuse to a child protective agency immediately, or as soon as practically possible, by telephone and to prepare and send a written report thereof within 36 hours of receiving the information concerning the incident.

For purposes of this section, "child care custodian" includes teachers; an instructional aide, a teacher's aide, or a teacher's assistant employed by any public or private school, who has been trained in the duties imposed by this article, if the school district has so warranted to the State Department of Education; a classified employee of any public school who has been trained in the duties imposed by this article, if the school has so warranted to the State Department of Education; administrative officers, supervisors of child welfare and attendance, or certificated pupil personnel

employees of any public or private school; administrators of a public or private day camp; administrators and employees of public or private youth centers, youth recreation programs, or youth organizations; administrators and employees of public or private organizations whose duties require direct contact and supervision of children and who have been trained in the duties imposed by this article; licensees, administrators, and employees of licensed community care or child day care facilities; Headstart teachers; licensing workers or licensing evaluators; public assistance workers; employees of a child care institution including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities; social workers, probation officers, or parole officers; employees of a school district police or security department; any person who is an administrator or a presenter of, or a counselor in, a child abuse prevention program in any public or private school, a district attorney investigator, inspector, or family support officer unless the investigator, inspector, or officer is working with an attorney appointed pursuant to Section 317 of the Welfare and Institutions Code to represent a minor; or a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of this code, who is not otherwise described in this section.

"Health practitioner" includes physicians and surgeons, psychiatrists, psychologists, dentists, residents, interns, podiatrists, chiropractors, licensed nurses, dental hygienists, optometrists, or any other person who is licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, marriage, family, and child counselors; emergency medical technicians I or II, paramedics, or other persons certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code; psychological assistants registered pursuant to Section 2913 of the Business and Professions Code; marriage, family, and child counselor trainees as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code; unlicensed marriage, family, and child counselor interns registered under Section 4980.44 of the Business and Professions Code; state or county public health employees who treat minors for venereal disease or any other condition, coroners; and paramedics.

"Child visitation monitor" means any person as defined in Section 11165.15.

The signed statements shall be retained by the employer or the court, as the case may be. The cost of printing, distribution, and filing of these statements shall be borne by the employer or the court.

This subdivision is not applicable to persons employed by child protective agencies, public or private youth centers, youth recreation programs, and youth organizations as members of the support staff or maintenance and who do not work with, observe, or have knowledge of children as part of their official duties.

Section 11166. Report; duty; time.

- (a) Except as provided in subdivision (b), any child care custodian, medical practitioner, non-medical practitioner, or employee of a child protective agency who has knowledge of or observes a child in his or her professional capacity or within the scope of his or her employment whom he or she knows or reasonable suspects has been the victim of child abuse shall report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and shall prepare and send a written report thereof within 36 hours of receiving the information concerning the incident. For the purposes of this article, "reasonable suspicion" means that it is objectively reasonable for a person to entertain such a suspicion, based upon facts that could

cause a reasonable person in a like position, drawing when appropriate on his or her training and experience, to suspect child abuse.

- (b) Any child care custodian, medical practitioner, non-medical practitioner, or employee of a child protective agency who has knowledge of or who reasonably suspects that mental suffering has been inflicted on a child or his or her emotional well-being is endangered in any other way, may report such known or suspected instance of child abuse to a child protective agency.
- (c) Any other person who has knowledge of or observes a child whom he or she knows or reasonably suspects has been a victim of child abuse may report the known or suspected instance of child abuse to a child protective agency.
- (d) When two or more persons who are required to report are present and jointly have knowledge of a known or suspected instance of child abuse, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by such selected member of the reporting team. Any member, who has knowledge that the member designated to report has failed to do so, shall thereafter make the report.
- (e) The reporting duties under this section are individual and no supervisor or administrator may impede or inhibit the reporting duties and no person making such a report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established provided that they are not inconsistent with the provisions of this article.
- (f) A county probation or welfare department shall immediately or as soon as practically possible report by telephone to the law enforcement agency having jurisdiction over the case, and to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, every known or suspected instance of child abuse as defined in Section 11165, except acts or omissions coming within the provisions of paragraph (2) of subdivision (c) of Section 11165, which shall only be reported to the county welfare department. A county probation or welfare department shall also send a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision.

A law enforcement agency shall immediately or as soon as practically possible report by telephone to the county welfare department and the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, every known or suspected instance of child abuse reported to it, except acts or omissions coming within the provisions of paragraph (2) of subdivision (c) of Section 11165, which shall only be reported to the county welfare department. A law enforcement agency shall also send a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision.

Section 11165. Investigation and Control Definitions.

As used in this article:

- (a) Child" means a person under the age of 18 years.

- (b). "Sexual assault" means conduct in violation of the following sections of the Penal Code: Sections 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivisions (a) and (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), and Sections 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign object), and 647a (child molestation).
- (c). "Neglect" means the negligent treatment or the maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term includes both acts and omissions on the part of the responsible person.
- (1). "Severe neglect" means the negligent failure of a person having the care or custody of a child to protect the child from severe malnutrition or medically diagnosed non-organic failure to thrive. "Severe neglect" also means those situations of neglect where any person having the care or custody of a child willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered, as proscribed by subdivision (d), including the intentional failure to provide adequate food, clothing, or shelter.
- (2). "General neglect" means the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, or supervision where no physical injury to the child has occurred.

For the purposes of this chapter, a child receiving treatment by spiritual means as provided in Section 16508 of the Welfare and Institutions Code or not receiving specified medical treatment for religious reasons, shall not for that reason alone be considered a neglected child.

- (d). "Willful cruelty or unjustifiable punishment of a child" means a situation where any person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered.
- (e). "Corporal punishment or injury" means a situation where any person willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition.
- (f). "Abuse in out-of-home care" means situations of physical injury on a child which is inflicted by other than accidental means, or of sexual assault or neglect or the willful cruelty or unjustifiable punishment of a child, as defined in this article, where the person responsible for the child's welfare is a foster parent or the administrator or an employee of a public or private residential home, school, or other institution or agency.
- (g). "Child abuse" means a physical injury, which is inflicted by other than accidental means on a child by another person. "Child abuse" also means the sexual assault of a child or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment of a child) or 273d (corporal punishment or injury). "Child abuse" also means the neglect of a child or abuse in out-of-home care, as defined in this article.

- (h). "Child care custodian" means a teacher, administrative officer, supervisor of child welfare and attendance, or certificated pupil personnel employee of any public or private school; an administrator of a public or private day camp; a licensed day care worker; an administrator of a community care facility licensed to care for children; Headstart teacher; a licensing worker or licensing evaluator; public assistance worker; employee of a child care institution including, but not limited to, foster parents, group home personnel and personnel of residential care facilities; a social worker or a probation officer.
- (i). "Medical practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code.
- (j). "Non-medical practitioner" means a state or county public health employee who treats a minor for venereal disease or any other condition; a coroner; a paramedic; a marriage, family, or child counselor; or a religious practitioner who diagnoses, examines, or treats children.
- (k). "Child protective agency" means a police or sheriff's department, a county probation department, or a county welfare department.

Section 11172. Immunity from liability; failure to report; offense.

- (a). No child care custodian, medical practitioner, non-medical practitioner, or employee of a child protective agency who reports a known or suspected instance of child abuse shall be civilly or criminally liable for any report required or authorized by this article. Any other person reporting a known or suspected instance of child abuse shall not incur civil or criminal liability as a result of any report authorized by this article unless it can be proven that a false report was made and the person knew that the report was false. No person required to make a report pursuant to this article, nor any person taking photographs at his or her direction, shall incur any civil or criminal liability for taking photographs of a suspected victim of child abuse, or causing photographs to be taken of a suspected victim of child abuse, without parental consent, or for disseminating the photographs with the reports required by this article. However, the provisions of this section shall not be construed to grant immunity from such liability with respect to any other use of the photographs.
- (b). Any person who fails to report an instance of child abuse which he or she knows to exist or reasonably should know to exist, as required by this article, is guilty of a misdemeanor and is punishable by confinement in the county jail for a term not to exceed six months or by a fine of not more than five hundred dollars (\$500) or by both.

ELDER AND DEPENDENT ADULT ABUSE REPORTING

W&I Code Section 15630.

- (a). Any person who has assumed full or intermittent responsibility for care or custody of an elder or dependent adult, whether or not that person receives compensation, including administrators, supervisors, and any licensed staff of a public or private facility that provides care or services for elder or dependent adults, or any elder or dependent adult care custodian, health practitioner, or employee of a county adult protective services agency or a local law enforcement agency is a mandated reporter.

- (b). Any mandated reporter, who, in his or her professional capacity, or within the scope of his or her employment, has observed or has knowledge of an incident that reasonably appears to be physical abuse, abandonment, isolation, financial abuse, or neglect, or is told by an elder or dependent adult that he or she has experienced behavior constituting physical abuse, abandonment, isolation, financial abuse, or neglect, or reasonably suspects abuse shall report the known or suspected instance of abuse by telephone immediately or as soon as practically possible, and by written report sent within two working days, as follows:

- (1). If the abuse has occurred in a long-term care facility, except a state mental health hospital or a state developmental center, the report shall be made to the local ombudsman or the local law enforcement agency.

Except in an emergency, the local ombudsman and the local law enforcement agency shall report any case of known or suspected abuse to the State Department of Health Services and any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud, as soon as is practical.

- (2). If the suspected or alleged abuse occurred in a state mental health hospital or a state developmental center, the report shall be made to designated investigators of the State Department of Mental Health or the State Department of Developmental Services or to the local law enforcement agency.

Except in an emergency, the local law enforcement agency shall report any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud, as soon as is practical.

- (3). If the abuse has occurred any place other than one described in subparagraph (A), the report shall be made to the adult protective services agency or the local law enforcement agency.

- (c) A mandated reporter shall not be required to report, as a suspected incident of abuse, as defined in Section 15610.07, an incident where all of the following conditions exist:

- (1). The mandated reporter has been told by an elder or dependent adult that he or she has experienced behavior constituting physical abuse, abandonment, isolation, financial abuse, or neglect.
- (2). The mandated reporter is not aware of any independent evidence that corroborates the statement that the abuse has occurred.
- (3). The elder or dependent adult has been diagnosed with a mental illness, defect, dementia, or incapacity, or is the subject of a court-ordered conservatorship because of a mental illness, defect, dementia, or incapacity.
- (4). The mandated reporter reasonably believes that the abuse did not occur.

- (d) This paragraph shall not be construed to impose upon mandated reporters a duty to investigate a known or suspected incident of abuse and shall not be construed to lessen or restrict any existing duty of mandated reporters.

- (e) In a long-term care facility, a mandated reporter shall not be required to report as a suspected incident of abuse, as defined in Section 15610.07, an incident where all of the following conditions exist:

- (1). The mandated reporter is aware that there is a proper plan of care.
- (2). The mandated reporter is aware that the plan of care was properly provided or executed.
- (3). A physical, mental, or medical injury occurred as a result of care provided pursuant to clause (1) or (2).
- (4). The mandated reporter reasonably believes that the injury was not the result of abuse.

This paragraph shall not be construed to require a mandated reporter to seek, nor to preclude a mandated reporter from seeking, information regarding a known or suspected incident of abuse prior to reporting. This paragraph shall apply only to those categories of mandated reporters that the State Department of Health Services determines, upon approval by the Bureau of Medi-Cal Fraud and the state long-term care ombudsman, have access to plans of care and have the training and experience necessary to determine whether the conditions specified in this section have been met.

- (f) Any mandated reporter who has knowledge of, or reasonably suspects that, types of elder or dependent adult abuse for which reports are not mandated have been inflicted upon an elder or dependent adult or that his or her emotional well-being is endangered in any other way, may report the known or suspected instance of abuse.

- (1). If the suspected or alleged abuse occurred in a long-term care facility other than a state mental health hospital or a state developmental center, the report may be made to the long-term care ombudsman program. Except in an emergency, the local ombudsman shall report any case of known or suspected abuse to the State Department of Health Services and any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud, as soon as is practical.
- (2). If the suspected or alleged abuse occurred in a state mental health hospital or a state developmental center, the report may be made to the designated investigator of the State Department of Mental Health or the State Department of Developmental Services, or to a local law enforcement agency or to the local ombudsman. Except in an emergency, the local ombudsman and the local law enforcement agency shall report any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud, as soon as is practical.
- (3). If the suspected or alleged abuse occurred in a place other than a place described in paragraph (1) or (2), the report may be made to the county adult protective services agency.
- (4). If the conduct involves criminal activity not covered in subdivision (b), it may be immediately reported to the appropriate law enforcement agency.

- (g) When two or more mandated reporters are present and jointly have knowledge or reasonably suspect that types of abuse of an elder or a dependent adult for which a report is or is not mandated have occurred, and when there is agreement among them, the telephone report may be made by a member

of the team selected by mutual agreement, and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.

- (h) A telephone report of a known or suspected instance of elder or dependent adult abuse shall include the name of the person making the report, the name and age of the elder or dependent adult, the present location of the elder or dependent adult, the names and addresses of family members or any other person responsible for the elder or dependent adult's care, if known, the nature and extent of the elder or dependent adult's condition, the date of the incident, and any other information, including information that led that person to suspect elder or dependent adult abuse, requested by the agency receiving the report.
- (i) The reporting duties under this section are individual, and no supervisor or administrator shall impede or inhibit the reporting duties, and no person making the report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting, ensure confidentiality, and apprise supervisors and administrators of reports may be established, provided they are not inconsistent with this chapter.
- (j) Whenever this section requires a county adult protective services agency to report to a law enforcement agency, the law enforcement agency shall, immediately upon request, provide a copy of its investigative report concerning the reported matter to that county adult protective services agency.
 - (1). Whenever this section requires a law enforcement agency to report to a county adult protective services agency, the county adult protective services agency shall, immediately upon request, provide a copy of its investigative report concerning the reported matter to that law enforcement agency.
 - (2). The requirement to disclose investigative reports pursuant to this subdivision shall not include the disclosure of social services records or case files that are confidential, nor shall this subdivision be construed to allow disclosure of any reports or records if the disclosure would be prohibited by any other provision of state or federal law.
- (k) Failure to report physical abuse, abandonment, isolation, financial abuse, or neglect of an elder or dependent adult, in violation of this section, is a misdemeanor, punishable by not more than six months in the county jail or by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment. Any mandated reporter who willfully fails to report physical abuse, abandonment, isolation, financial abuse, or neglect of an elder or dependent adult, in violation of this section, where that abuse results in death or great bodily injury, is punishable by not more than one year in a county jail or by a fine of not more than five thousand dollars (\$5,000) or by both that fine and imprisonment.

W&I Code Section 15610.27. Elder

"Elder" means any person residing in this state, 65 years of age or older.

W&I Code Section 15610.23. Dependent Adult

- (a). "Dependent adult" means any person residing in this state, between the ages of 18 and 64 years, who has physical or mental limitations that restrict his or her ability to carry out normal activities or to protect his or her rights including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age.
- (b). "Dependent adult" includes any person between the ages of 18 and 64 who is admitted as an inpatient to a 24-hour health facility, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code.

W&I Code Section 15610.65. Reasonable Suspicion

"Reasonable suspicion" means an objectively reasonable suspicion that a person would entertain, based upon facts that could cause a reasonable person in a like position, drawing when appropriate upon his or her training and experience, to suspect abuse.

W&I Code Section 15610.07. Abuse

"Abuse of an elder or a dependent adult" means either of the following:

- (a). Physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering.
- (b). The deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering.

W&I Code Section 15610.30. Financial abuse

- (a) "Financial abuse" means a situation in which one or both of the following apply:
 - (1). A person, including, but not limited to, one who has the care or custody of, or who stands in a position of trust to, an elder or a dependent adult, takes, secretes, or appropriates their money or property, to any wrongful use, or with the intent to defraud.
 - (2). A situation in which all of the following conditions are satisfied:
 - (A). An elder (who would be a dependent adult if he or she were between the ages of 18 and 64) or dependent adult or his or her representative requests that a third party transfer to the elder or dependent adult or to his or her representative, or to a court appointed receiver, property that meets all of the following criteria:
 - (i). The third party holds or has control of the property.
 - (ii). The property belongs to, or is held in express trust, constructive trust or resulting trust for, the elder or dependent adult.
 - (iii). The ownership or control of the property was acquired in whole or in part by the third party or someone acting in concert with the third party from the elder or dependent adult at a time when the elder or dependent adult was a

dependent adult or was a person who would have been a dependent adult if he or she had then been between the ages of 18 and 64.

- (B). Despite the request for the transfer of property, the third party without good cause either continues to hold the property or fails to take reasonable steps to make the property readily available to the elder or dependent adult, to his or her representative or to a court appointed receiver.
 - (C). The third party committed acts described in this paragraph in bad faith. A third party shall be deemed to have acted in bad faith if the third party either knew or should have known that the elder or dependent adult had the right to have the property transferred or made readily available. For purposes of this subdivision, a third party should have known of this right if, on the basis of the information received by the elder or dependent adult, or the elder or dependent adult's representative, it is obvious to a reasonable person that the elder or dependent adult had this right.
- (b). For the purpose of this section, the term "third party" means a person who holds or has control of property that belongs to or is held in express trust, constructive trust or resulting trust for an elder or dependent adult.
- (c). For the purposes of this section, the term "representative" means an elder or dependent adult's conservator of the estate, or attorney-in-fact acting within the authority of the power of attorney.

W&I Code Section 15610.57. Neglect

- (a). "Neglect" means either of the following:
- (1). The negligent failure of any person having the care or custody of an elder or a dependent adult to exercise that degree of care that a reasonable person in a like position would exercise.
 - (2). The negligent failure of the person themselves to exercise that degree of care that a reasonable person in a like position would exercise.
- (b). Neglect includes, but is not limited to, all of the following:
- (1). Failure to assist in personal hygiene, or in the provision of food, clothing, or shelter.
 - (2). Failure to provide medical care for physical and mental health needs. No person shall be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment by spiritual means through prayer alone in lieu of medical treatment.
 - (3). Failure to protect from health and safety hazards.
 - (4). Failure to prevent malnutrition or dehydration.
 - (5). Failure of a person to provide the needs specified in paragraphs (1) to (4), inclusive, for themselves due to ignorance, illiteracy, incompetence, mental limitation, substance abuse, or poor health.

W&I Code Section 15610.63. Physical Abuse

"Physical abuse" means any of the following:

- (a). Assault, as defined in Section 240 of the Penal Code.
- (b). Battery, as defined in Section 242 of the Penal Code.
- (c). Assault with a deadly weapon or force likely to produce great bodily injury, as defined in Section 245 of the Penal Code.
- (d). Unreasonable physical constraint, or prolonged or continual deprivation of food or water.
- (e). Sexual assault, that means any of the following:
 - (1). Sexual battery, as defined in Section 243.4 of the Penal Code.
 - (2). Rape, as defined in Section 261 of the Penal Code.
 - (3). Rape in concert, as described in Section 264.1 of the Penal Code.
 - (4). Spousal rape, as defined in Section 262 of the Penal Code.
 - (5). Incest, as defined in Section 285 of the Penal Code.
 - (6). Sodomy, as defined in Section 286 of the Penal Code.
 - (7). Oral copulation, as defined in Section 288a of the Penal Code.
 - (8). Penetration of a genital or anal opening by a foreign object, as defined in Section 289 of the Penal Code.
- (f). Use of a physical or chemical restraint or psychotropic medication under any of the following conditions:
 - (1). For punishment.
 - (2). For a period beyond that for which the medication was ordered pursuant to the instructions of a physician and surgeon licensed in the State of California, who is providing medical care to the elder or dependent adult at the time the instructions are given.
 - (3). For any purpose not authorized by the physician and surgeon.

W&I Code Section 15610.05. Abandonment

"Abandonment" means the desertion or willful forsaking of an elder or a dependent adult by anyone having care or custody of that person under circumstances in which a reasonable person would continue to provide care and custody.

W&I Code Section 15610.06. Abduction

"Abduction" means the removal from this state and the restraint from returning to this state, or the restraint from returning to this state, or any elder or dependent adult who does not have the capacity to consent to the removal from this state and the restraint from returning to this state, or the restraint from returning to this state, as well as the removal from this state or the restraint from returning to this state, of any conservatee without the consent of the conservator or the court.

W&I Code Section 15610.43. Isolation

(a). "Isolation" means any of the following:

- (1). Acts intentionally committed for the purpose of preventing, and that do serve to prevent, an elder or dependent adult from receiving his or her mail or telephone calls.
 - (2). Telling a caller or prospective visitor that an elder or dependent adult is not present, or does not wish to talk with the caller, or does not wish to meet with the visitor where the statement is false, is contrary to the express wishes of the elder or the dependent adult, whether he or she is competent or not, and is made for the purpose of preventing the elder or dependent adult from having contact with family, friends, or concerned persons.
 - (3). False imprisonment, as defined in section 236 of the Penal Code.
 - (4). Physical restraint of an elder or dependent adult, for the purpose of preventing the elder or dependent adult from meeting with visitors.
- (b). The acts set forth in subdivision (a) shall be subject to a rebuttable presumption that they do not constitute isolation if they are performed pursuant to the instructions of a physician and surgeon licensed to practice medicine in the state, who is caring for the elder or dependent adult at the time the instructions are given, and who gives the instructions as part of his or her medical care.
- (c). The acts set forth in subdivision (a) shall not constitute isolation if they are performed in response to a reasonably perceived threat of danger to property or physical safety.

W&I Code Section 15610.53. Mental Suffering

"Mental suffering" means fear, agitation, confusion, severe depression, or other forms of serious emotional distress that is brought about by threats, harassment, or other forms of intimidating behavior.

SAN BERNARDINO COUNTY DEPARTMENT OF BEHAVIORAL HEALTH

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After reading the proceeding pages, sign the document, and turn it in to your Clinic Supervisor. It will be filed in your personnel file. (Keep pages 1 through 11 for legal reference.)

SIGNATURE AFFIRMATION

I acknowledge that I am aware of and will comply with reporting duties under Penal Code 11166 and Welfare & Institutions Code 15659.

Applicant/Employee Signature

Date

Applicant/Employee Printed Name
D27\15632